

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

IN RE: PHARMACEUTICAL INDUSTRY
AVERAGE WHOLESALE PRICE
LITIGATION

)
) MDL No. 1456
) Master File No. 1:01-CV-12257-PBS
) Sub-Category Case No. 1:08-CV-11200
)

THIS DOCUMENT RELATES TO:
*United States ex rel. Linnette Sun and Greg
Hamilton, Relators*
v.
*Baxter Hemoglobin Therapeutics and Baxter
International Inc.*

) Judge Patti B. Saris
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RELATOR'S SEPARATE NOVEMBER 2009 STATUS REPORT

The undersigned counsel for Relator hereby submits the attached Status Report for
November 2009, in accordance with the Court's June 17, 2004 Procedural Order.

DATED this 2nd day of November, 2009.

Respectfully submitted,

/s/ Mark Allen Kleiman

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CERTIFICATE OF SERVICE

I hereby certify that I, Pamela Savoie, a legal assistant to Mark Kleiman, counsel for Relators, caused a true and correct copy of the foregoing, NOVEMBER 2009 STATUS REPORT, to be delivered to all counsel of record by electronic service on November 2, 2009 for the posting and notification of all parties.

BY: /s/ Pamela R. Savoie
Pamela Savoie

NOVEMBER 2009 STATUS REPORT

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| PRIVATE CLASS CASE | <i>United States ex rel. Linnette Sun and Greg Hamilton, Relators v. Baxter Hemoglobin Therapeutics and Baxter International Inc.</i> |
| MDL DOCKET NUMBER | Master File No. 1:01-CV-12257-PBS Sub-Category Case No. 1:08-CV-11200 |
| JURISDICTION | D. Mass, pursuant to JPML order |
| STATUS | <ul style="list-style-type: none">• Transferred to MDL 1456 by JPML on July 14, 2008• Court Order entered on July 15, 2008 consolidating <i>Sun</i> case with the lead case No. 01-12257• Court received MDL record from the United States District Court for the District of Colorado on August 5, 2008• Status Conference held on June 22, 2009• Court entered Case Management Order with respect to briefing schedule on June 23, 2009; otherwise, all discovery is stayed• Defendant filed Motion for Leave to File Excess Pages on August 14, 2009<ul style="list-style-type: none">• Relators filed Opposition to Defendant's Motion for Leave to File Excess Pages on August 20, 2009• Electronic order entered by the Court granting Defendant's Motion for Leave to File Excess Pages on August 21, 2009• Defendant filed Motion to Dismiss Relators' Complaint (and accompanying Memorandum, Declaration, Exhibits, and Proposed Order) on August 14, 2009 (pending)<ul style="list-style-type: none">• Relators filed Opposition to Defendant's Motion to Dismiss Relators' Complaint (and accompanying Proposed Order) and Motion for Excess Pages on September 15, 2009• Defendant filed Reply in Further Support of Its Motion to Dismiss Relators' Complaint (and accompanying Declaration and Exhibits) on September 30, 2009 |

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| | <ul style="list-style-type: none">• Relators filed Motion to Lift Stay on Discovery (and accompanying Memorandum, Exhibits, and Proposed Order) on August 31, 2009 (pending)<ul style="list-style-type: none">• Defendant filed Opposition to Relators' Motion to Lift Stay on Discovery on September 10, 2009• Defendant filed Motion For Leave to Conduct Limited Discovery and for an Extension of Time to Submit Reply Brief on September 23, 2009<ul style="list-style-type: none">• Electronic order entered by the Court granting Defendant's Motion for Leave to Conduct Limited Discovery on October 15, 2009• Defendant served two Requests for Documents comprising a total of forty-two items and two Notices of Deposition on Relators on October 19, 2009• Hearing on Motion to Dismiss currently set for Nov. 16, 2009 at 3 p.m. (to be rescheduled) |
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